

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

Regulation 1566. AUTOMOBILE DEALERS AND SALES REPRESENTATIVES

Reference: Sections 6011, 6012, 6012.3, 6015, 6092-6242, 6248, 6249, 6271-6294, and 6422.1, Revenue and Taxation Code; and Section 11713.21, Vehicle Code.

(a) DEALER AID TO SALES REPRESENTATIVES. An automobile dealer, pursuant to section 6015, is regarded as the retailer of tangible personal property sold by the dealer's sales representatives in their own behalf if the dealer aids the sales representatives in making such sales in either of the following ways:

(1) By reporting the sales representatives' sales on the dealer's report of sales to the Department of Motor Vehicles.

(2) By executing conditional sales agreements with respect to such sales representatives' sales in which the dealer appears as the seller.

Dealers who aid their sales representatives by acting as guarantors on conditional sales agreements executed by the sales representatives or by requiring or permitting the sales representatives to use the dealer's showroom or other facilities in making such sales are not required to pay tax on the sale of the vehicles. The purchasers from these sales representatives, and from sales representatives making sales without dealer aid, must pay the use tax to the Department of Motor Vehicles.

(b) RESALE CERTIFICATES FROM NONDEALER RETAILERS. A dealer who is licensed or certificated pursuant to the California Vehicle Code and who sells a vehicle to a retailer who is not regularly engaged in selling or leasing vehicles should accept a resale certificate only if it contains a statement that the specific vehicle is being purchased for resale in the regular course of business.

Unless the person named as the purchaser on the resale certificate is also named on the dealer's report of sale and application for registration, either singly or jointly as registered owner, the sale will be regarded as a retail sale subject to sales tax, and the resale certificate will not be honored, whether or not it contains a statement that the specific vehicle is being purchased for resale in the regular course of business.

(c) SALES TO MEMBERS OF THE ARMED SERVICES. A dealer (or manufacturer or dismantler) who is licensed or certificated pursuant to the California Vehicle Code must report and pay sales tax to the Board with respect to the sale of a vehicle in California to a member of the armed services regardless of the service member's place of residence. A dealer (or manufacturer or dismantler) so licensed or certificated who sells a vehicle outside of California to a member of the armed services for use in California must collect use tax from the service member and remit it to the Board unless the sale is made to a service member on active duty, prior to the effective date of discharge and the intention to use the vehicle in California results from official transfer orders to California and not from the service member's own independent determination. The service member will be considered to have made an independent determination to use the vehicle in California if the contract to purchase the vehicle is made after the service member receives official transfer orders to California or if at the time the contract to purchase the vehicle is made the service member arranges to take receipt of the vehicle in California.

(d) OUT-OF-STATE PURCHASES OF VEHICLES. Regarding the applicability of tax to the out-of-state purchase of a vehicle, see subdivision (b) of Regulation 1620 (18 CCR 1620).

(e) CONTRACT CANCELLATION OPTIONS REQUIRED BY CAR BUYER'S BILL OF RIGHTS.

(1) Contract Cancellation Option. On and after July 1, 2006, the terms "gross receipts" and "sales price" do not include the purchase price for a contract cancellation option agreement with respect to a contract to purchase a used vehicle with a purchase price of less than forty thousand dollars (\$40,000), which a dealer is required to offer to a buyer pursuant to Vehicle Code section 11713.21. The purchase price for a contract cancellation option described in this paragraph shall not exceed:

(A) Seventy-five dollars (\$75) for a vehicle with a cash price of five thousand dollars (\$5,000) or less;

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(B) One hundred fifty dollars (\$150) for a vehicle with a cash price of more than five thousand dollars (\$5,000), but not more than ten thousand dollars (\$10,000);

(C) Two hundred fifty dollars (\$250) for a vehicle with a cash price of more than ten thousand dollars (\$10,000), but not more than thirty thousand dollars (\$30,000); or

(D) One percent of the purchase price for a vehicle with a cash price of more than thirty thousand dollars (\$30,000), but less than forty thousand dollars (\$40,000).

(2) Restocking Fee. On and after July 1, 2006, the terms "gross receipts" and "sales price" do not include the dollar amount of a restocking fee the buyer must pay to the dealer to exercise the right to cancel a purchase of a used car under a contract cancellation option agreement pursuant to Vehicle Code section 11713.21 as described in paragraph (1) of this subdivision. The dollar amount of a restocking fee described in this paragraph shall not exceed:

(A) One hundred seventy-five dollars (\$175) if the vehicle's cash price is five thousand dollars (\$5,000) or less;

(B) Three hundred fifty dollars (\$350) if the vehicle's cash price is more than five thousand dollars (\$5,000), but less than ten thousand dollars (\$10,000); or

(C) Five hundred dollars (\$500) if the vehicle's cash price is ten thousand dollars (\$10,000) or more.

(3) Amounts Refunded to Customers. On and after July 1, 2006, the terms "gross receipts" and "sales price" do not include that portion of the selling price for a used motor vehicle that is refunded to the buyer due to the buyer's exercise of the right to return the vehicle for a refund, which is contained in a contract cancellation option agreement pursuant to Vehicle Code section 11713.21 as described in paragraph (1) of this subdivision.

History Adopted August 7, 1957, as restatement of previous ruling, effective September 11, 1957.

Amended September 18, 1963, effective as amended October 1, 1963.

Amended and renumbered August 22, 1969, effective September 24, 1969.

Amended August 5, 1970, effective October 1, 1979.

Amended November 16, 1977, effective December 25, 1977. Clarified taxable sales to service members and noted new interpretation of such sales effective January 1, 1977.

Amended December 14, 2004, effective March 18, 2005. Changed the word "salesmen" to "sales representatives" in the title and throughout the text. Changed the word "he" to "the dealer" and changed the word "his" to "the dealer's." Changed the word "board" to upper case throughout. Subdivision (c): Deleted the last two sentences. Subdivision (d): Deleted the phrase "—90-DAY TEST" from the title. Deleted the subdivision's language and added language referencing subdivision (b) of Regulation 1620.

Amended November 20, 2006, effective April 10, 2007. Added subdivision (e) to incorporate provisions of Revenue and Taxation Code section 6012.3 and Vehicle Code section 11713.21.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.